

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARY VAN BRUNT-PIEHLER,

Plaintiff,

v.

ABSOLUTE SOFTWARE, INC., ABSOLUTE
SOFTWARE CORPORATION, GEOFF HAYDON,
THOMAS KENNY, and TODD AWTRY,

Defendants.

AFFIRMATION OF JONATHAN W.
FERRIS

Civil Action No.
16-CV-6313-EAW-MWP

Jonathan W. Ferris, under penalty of perjury deposes and states:

1. I am an attorney with the law firm Thomas & Solomon LLP, and as which I am knowledgeable and familiar with the facts of this matter.

2. I submit this affirmation in support of Plaintiff's Motion to Compel the Production of Entire Personnel Files.

3. Pursuant to Local Rule 7(a)(3), I submit this affirmation in support of plaintiff's motion to compel production of this discovery.

4. Specifically, plaintiff request that the Court order the defendants to produce the entire personnel files of the comparators and decisionmakers in this action.

5. For the agreed upon individuals, defendants initially produced personnel files that were created during the relevant time period.

6. After conferral with the defendants confirmed that defendants would not produce the entire personnel files, plaintiff informally raised this issue with the Court and the issue was discussed with the Court during the May 8, 2018 status conference.

7. During the status conference, the Court noted that it was "inclined to agree with plaintiffs on this. I mean, I tend to think when I order personnel files to be turned over,

I am looking for the entirety of the file to be turned over ..." *See* Oral Argument Transcript at 30: 24-25; 31:1-2.

8. Following the status conference, defendants have indicated that they will produce documents from the personnel files from the inception of an individual's employment, regardless of whether such documents were created prior to the beginning of the relevant time period.

9. However, defendants are still only producing documents in the personnel files through the end date of the relevant time period, July 1, 2016.

10. Plaintiff is therefore seeking a ruling ordering the defendants to produce the entire personnel files of the comparators and decisionmakers in this action.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on May 31, 2018.

s/ Jonathan W. Ferris
Jonathan W. Ferris